

Jeffrey C. Fereday (Idaho State Bar # 2719)
Michael C. Creamer (Idaho State Bar # 4030)
GIVENS PURSLEY LLP
601 Bannock Street, Suite 200
P.O. Box 2720
Boise, ID 83701-2720
Telephone: (208) 388-1200
Facsimile: (208) 388-1300

Attorneys for Idaho Ground Water Appropriators, Inc.

RECEIVED
JUN 03 2005
DEPARTMENT OF
WATER RESOURCES

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF THE REQUEST FOR
ADMINISTRATION IN WATER DISTRICT
120 AND THE REQUEST FOR DELIVERY
OF WATER TO SENIOR SURFACE
WATER RIGHTS BY A & B IRRIGATION
DISTRICT, AMERICAN FALLS
RESERVOIR DISTRICT #2, BURLEY
IRRIGATION DISTRICT, MILNER
IRRIGATION DISTRICT, MINIDOKA
IRRIGATION DISTRICT, NORTH SIDE
CANAL COMPANY, and TWIN FALLS
CANAL COMPANY

**IGWA'S SUPPLEMENT TO INFORMATION
SUBMITTAL**

Idaho Ground Water Appropriators, Inc. ("IGWA"), through its counsel, Givens Pursley LLP, and on behalf of its ground water district members, Aberdeen-American Falls Ground Water District, Magic Valley Ground Water District, Bingham Ground Water District, North Snake Ground Water District, Bonneville-Jefferson Ground Water District, Southwest Irrigation District, and Madison Ground Water District (the "Ground Water Districts"), in further response to the Director's May 6, 2005 Order in this matter ("May 6 Order"), hereby supplements its May 23, 2005 *Information Submittal Responding to May 6, 2005 Order Regarding IGWA Replacement Water Plan* (the "Information Submittal").

BACKGROUND

In the May 6 Order, the Director listed what he deemed to be deficiencies in the information submitted to confirm the availability of certain sources of replacement water identified in IGWA's April 29, 2005 Replacement Water Plan (the "Replacement Water Plan"). In response, IGWA filed the Information Submittal on May 23, 2005. This Supplement provides additional information in response to the May 6 Order.

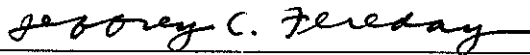
SUPPLEMENTARY DOCUMENTATION

1. Replacement Water Provided by Storage This supplements the Information Submittal's Response to Information Request No. 1. The Information Submittal noted that the private leases of storage water between IGWA and three irrigation delivery entities had been forwarded to the Water District 01 Watermaster. Attached as Exhibit A is the May 31, 2005 letter from Watermaster Ronald D. Carlson to Michael Creamer stating that he has received \$260,500 from five ground water districts as payment for 20,000 acre-feet of rental pool storage water, and that the storage water would be transferred to the ground water districts for this year.
2. Lease of FMC Ground Water Right This supplements the Information Submittal's Response to Information Request No. 2. The May 6 Order noted that IGWA had not yet documented that it has executed a water lease agreement with FMC Corporation. The Information Submittal enclosed a copy of the executed lease, which contains an automatic one-year renewal provision. Attached hereto as Exhibit B is a copy of the January 26, 2005 letter from Aberdeen-American Falls Ground Water District ("AAFGWD") to FMC enclosing copies of three checks to FMC for the water lease payment in 2005, one each from AAFGWD, Bingham Ground Water District, and Bonneville-Jefferson Ground Water District. The lease is in effect for 2005, and the lease payment has been made.

3. Dry Year Leases. This supplements the Information Submittal's Response to Information Request No 3. The May 6 Order noted discrepancies in the ownership documentation for the places of use involved in the dry year leases that are part of IGWA's Replacement Water Plan. Attached hereto as Exhibit C are copies of change of ownership documentation for the Foster Land and Cattle parcels. Exhibit D contains copies of change of ownership documentation for the KBC Farms, LLC parcel. Exhibit E consists of four satellite photos showing irrigated acres in 2004 for the KBC Farms, Henry Olsen, Foster Land and Cattle, and William Toeys parcels.

RESPECTFULLY SUBMITTED this 3rd day of June 2005.

GIVENS PURSLEY LLP



Jeffrey C Fereday
Michael C Creamer

Attorneys for Idaho Ground Water Appropriators, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of June 2005, I served a true and correct copy of the foregoing by delivering it to the following individuals by the method indicated below, addressed as stated.

Mr. Karl J. Dreher
Director
Idaho Department of Water Resources
322 East Front Street
P O. Box 83720
Boise, ID 83720-0098

☐ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☒ Hand Delivery
☐ E-mail

C. Tom Arkoosh, Esq.
Arkoosh Law Offices, Chtd.
301 Main Street
P.O. Box 32
Gooding, ID 83330

☒ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

W. Kent Fletcher, Esq.
Fletcher Law Office
P O. Box 248
Burley, ID 83318-0248

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☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
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Roger D. Ling, Esq.
Ling, Robinson & Walker
615 H St
P.O. Box 396
Rupert, ID 83350-0396

☒ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

John A. Rosholt, Esq.
John K. Simpson, Esq.
Travis L. Thompson, Esq.
Barker, Rosholt & Simpson
113 Main Avenue West, Ste. 303
Twin Falls, ID 83301-6167

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☐ Hand Delivery
☐ E-mail

Kathleen Marion Carr, Esq.
Office of the Field Solicitor
U.S. Department of the Interior
550 West Fort Street, MSC 020
Boise, ID 83724-0020

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☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

E. Gail McGarry, P.E.
Program Manager
Water Rights & Acquisitions
PN-3100
U.S. Bureau of Reclamation
Pacific Northwest Region
1150 N. Curtis Road
Boise, ID 83706-1234

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☐ Hand Delivery
☐ E-mail

Scott L. Campbell, Esq.
Moffatt Thomas Barrett Rock & Fields, Chtd.
101 S. Capitol Blvd., 10th Floor
P.O. Box 829
Boise, ID 83701-0829

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☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

Michael S. Gilmore, Esq.
Deputy Attorney General
Civil Litigation Division
Office of the Attorney General
P.O. Box 83720
Boise, ID 83720-0010

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Josephine P. Beeman, Esq.
Beeman & Associates PC
409 West Jefferson
Boise, ID 83702-6049

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☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

Sarah A. Klahn, Esq.
White & Jankowski, LLP
511 16th Street, Suite 500
Denver, CO 80202

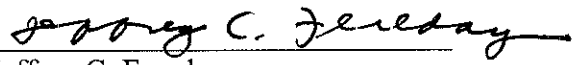
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☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

Idaho Department of Water Resources
Eastern Regional Office
900 North Skyline Dr
Idaho Falls, ID 83402-6105

☒ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail

Idaho Department of Water Resources
Southern Regional Office
1341 Fillmore St , Ste. 200
Twin Falls, ID 83301-3033

☒ U.S. Mail
☐ Facsimile
☐ Overnight Mail
☐ Hand Delivery
☐ E-mail


Jeffrey C. Fereday



RONALD CARLSON
WATERMASTER

(208) 525-7172
Fax (208) 525-7177

State of Idaho
Water District 1
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402-1718

IDWR DIRECTOR
KARL J. DREHER

May 31, 2005

COMMITTEE OF NINE

CHAIRMAN
Albert Lockwood
Eden

VICE CHAIRMAN
Larry Kerbs
St. Anthony

Leonard Beck
Burley

Charles Coiner
Hansen

Claude Storer
Idaho Falls

Paul Berggren
Blackfoot

Dale Rockwood
Idaho Falls

Don Hale
Blackfoot

Leland Clark
Ashton

Mr. Michael C. Creamer
GIVENS PURSLEY LLP
601 Bannock Street, Suite 2000
P.O. Box 2720
Boise, ID 83701-2720

Re: Storage Water Acquired by GW Districts

Dear Mr. Creamer:

In answer to your inquiry, between February 16 and May 26, 2005 I have received \$260,500 from five groundwater districts as payment for 20,000 acre-feet of rental pool storage water. This rented storage will be transferred from the 2005 allocation of the three spaceholder entities who have agreed to provide storage to the groundwater districts.

In addition, because of the estimated three million acre-feet of additional water the Eastern Snake Plain received between April 1 and June 1, some of those spaceholders who initially applied for part of the 50,000 acre-feet of storage that the procedures reserve for spaceholders, are withdrawing their rental requests. This means that it now appears that all of the 50,000 acre-feet may not be rented by spaceholders and therefore could be available to the groundwater districts. The amount that will be available from the 50,000 acre-feet may not be known before September 2005.

Very truly yours,

Ronald D. Carlson
Watermaster

EX. A

American Falls Aberdeen Area
Ground Water District
514 Iyhee Ave.
P.O. Box 70
American Falls, ID 83211
(208)226-5914
(208)226-1253 fax

American Falls Aberdeen Area Ground Water District

January 26, 2005

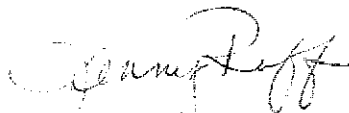
FMC Idaho, L.L.C
Rob J. Hartman
P O Box 4111
Pocatello, ID 83202

Dear Mr. Hartman:

Enclosed please find check #1203 in the amount of \$15,848.99, check #1195 in the amount of 7,344.52, and check #3077 in the amount of \$14,175.11 for a total of \$37,368.62 for the lease of water rights 29-02284, 29-02301, and 29-11342.

If you have any questions, please feel free to call me at the above number. Thank you.

Sincerely,



Jenny Ruff
Office Manager

Enc.

EX. B

AMERICAN FALLS ABERDEEN
GROUND WATER DISTRICT
P. O. BOX 70
AMERICAN FALLS, ID 83211
(208) 226-5914

IRELAND BANK
POCATELLO, ID 83201
92-85/1241

3077

1/26/2005

PAY TO THE ORDER OF FMC L L C

\$ **14,175 11

Fourteen Thousand One Hundred Seventy-Five and 11/100*****

DOLLARS

FMC Idaho, L.L.C.
P O Box 4111
Pocatello, ID 83202

MEMO

⑈003077⑈ ⑆124100857⑆ 95 00223 4⑈



Jun 02 05 01:47p

Jenny Ruff

(208) 226-1253

p. 4

BINGHAM GROUND WATER DISTRICT
MITIGATION FUND
P.O. BOX 42
PINEGEE ID 83262-0042

KeyBank National Association
Blackfoot Idaho 83221

1203

92-155/1241
103

1/21/2005

PAY TO THE ORDER OF FMC IDAHO LLC

\$ **15,848.99

Fifteen Thousand Eight Hundred Forty-Eight and 99/100*****

DOLLARS

FMC IDAHO LLC

MEMO

⑈001203⑈ ⑆124101555⑆ 121030371532⑈

FMC IDAHO LLC

1/21/2005

1203

15,848.99

BGWD MITIGATION FU

15,848.99

BONNEVILLE / JEFFERSON
GROUND WATER DISTRICT
P.O. BOX 51121
IDAHO FALLS, ID 83405

1195

PAY TO THE ORDER OF

FMC

DATE

1/19/05

92-367/1241
11722640

\$ 7,344.52

Sevent thousand three hundred forty four and 52/100 DOLLARS



BANK OF IDAHO

333 NORTH CAPITAL
P.O. BOX 1407, IDAHO FALLS, IDAHO 83405

FOR

Storage Water

Receipt
William R. Ruff

⑈001195⑈ ⑆124103676⑆ 1 1722840⑈

Form 42-200-005-140961 7/97, 3000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
35-02503A					
35-02508B					
35-02653					
35-07779					
35-12933					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

Thayne Mneiting
Blackfoot, Idaho

4. New Owner/Claimant(s)

Eoster Land & Cattle

Name Connector (Check one): ☐ and ☐ or ☐ and/or

New Mailing Address

P.O. Box

City, State and ZIP Code

Rigby, Ida. 83442

New Telephone Number

208-589-6170

5. Date you acquired the property

2-1-05

EX.C

PO BOX 308
RIGBY, ID 83442

92-155/1241
57200

PAY
TO THE
ORDER OF

I O W R Eastern Region

One hundred twenty five and 00/100

\$125.00

DOLLARS



KeyBank National Association
Pocatello, Idaho 83204
1800-KEY2YOU Key.com®

FOR

water right transfer

TWO SIGNATURES REQUIRED

Laurie Foster

Paul Foster

⑈001086⑈ ⑆12410155⑆ 12001251034⑈

MP

COPY

CONTRACT OF SALE

This Contract of Sale is executed the 4 day of April, 2005, by Thayne R. Gneiting and Colleen F. Gneiting, Trustees, or their successors in trust, under the Thayne and Colleen Gneiting Living Trust dated October 31, 1995, and any amendments thereof, hereinafter referred to as "Seller", and Foster Land & Cattle Co., an Idaho general partnership, and The Foster Company, an Idaho general partnership, whose mailing address is P. O. Box 308, Rigby, Idaho, 83442, hereinafter referred to as "Buyer".

In consideration of the mutual covenants set forth herein the parties agree as follows:

1. Sale. Seller agrees to sell to Buyer on the performance of the agreements of Buyer as hereinafter set forth the following:

A. Real Property. Seller agrees to sell to Buyer and to convey or cause to be conveyed by the legal owner or owners thereof by Grant Deed free and clear of liens and encumbrances, excepting any liens or encumbrances that may have attached by reason of any act or deed of Buyer, or any lien or encumbrance to which this Contract of Sale is expressly made subject, the following described real property (the "Property") situated in Bingham County, Idaho:

See Attached Exhibit "A" for Legal Description

SUBJECT TO:

- i. All existing easements or claims of easements, patent reservations, rights of way, protective covenants, zoning ordinances, and applicable building codes, laws and regulations, encroachments, overlaps, boundary line disputes and other matters which would be disclosed by an accurate survey or inspection of the premises
- ii. The lease in favor of Riverbend.

B. Personal Property. Seller agrees to sell to Buyer and to convey title thereto by Bill of Sale free and clear of all liens and encumbrances, except those to which this Contract of Sale is expressly made subject (i) all sprinkler equipment, including but not limited to four (4) pivots, pumps and associated main lines and hand lines; and (ii) three trailer houses, and (iii) a shed on the premises. The sprinkler equipment is identified on the attached Exhibit "B".

19. **Due on Sale.** Seller shall have the option of declaring all unpaid principal and interest due and payable if Buyer sells the property without Seller's consent, except that Buyer may transfer the property to another entity owned by Brad Foster and Boyd Foster.

20. **State Leases.**

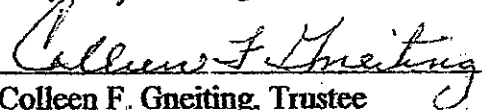
A. **Transfer.** Buyer shall sublease the State Leases until the November 1, 2005, payment is made. When the November 1, 2005, payment is made, the State Leases shall be assigned to Buyer.

B. **Management and Compliance.** Buyer and Seller agree to cooperate with each other regarding management of the State Leases. Buyer shall comply with all terms of said leases. If any of the State Leases come up for bid while Buyer owes Seller any amounts hereunder, Buyer and Seller shall cooperate to secure the leases. Buyer shall not be required to bid more to renew the lease than Seller's original bid to obtain the lease. Buyer recognizes that the state must agree to Buyer assigning the lease in case of default and that such agreement depends on Seller submitting an adequate management plan and other wise complying with all of the state's requirements.

IN WITNESS WHEREOF, the parties have caused their names to be subscribed, all as of the day and year first above written.

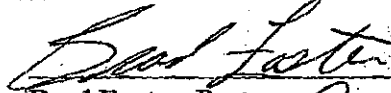
SELLER


Thayne R. Gneiting, Trustee


Colleen F. Gneiting, Trustee

BUYER

FOSTER LAND & CATTLE CO.

By: 
Brad Foster, Partner

By: 
Boyd Foster, Partner

April 4, 2005

Page - 3

Sprinkler Pipe

	Good	Marginal
3"	358	63
4"	513	106
6"	114	19
8"	197	4
10"	47	3
10"	5	0 (8')
12"	44	10

Water Rights

1. 35-02503A

a. Source: Groundwater
b. Quantity: 3.63 CFS
c. Priority Date: 05/06/1957
d. Point of Diversion: T1N R33E S26 NWSWSE
e. Purpose: Irrigation
f. Period of use: 04-01/11-01
g. Place of Use:
T1N R33E S26: SWSE 35 SESE 22
S35 NENE 35 NWNE 40 SWNE 40 SENE 27
NENW 29 SENW 22
S36 SWNW 26
276 Acres Total

2. 35-02503B

a. Source: Groundwater
b. Quantity: 1.97 CFS
c. Priority Date: 05/06/1957
d. Point of Diversion: T1N R33E NWSWSW
e. Purpose: Irrigation
f. Period of Use: 04-01/11-01
g. Place of Use:
T1N R33E S35 SENE 2 NESE 37 SESE 18
S36 NENE 9 NWNE 16 SWNE 38 SENE 8
NENW 7 SWNW 7 SENW 37 NESW 39

Page - 4

3. 35-02653

- 4 35-07779

5. 35-12933

- C:\WINDOWS\Local Settings\Temporary Internet Files\Content IE5\NY4V7LO1\equipmentletter[1].wpd

Page - 5

d. Point of Diversion: T1N R33E S27

f. **Place of Use:**

T1N R33E	S22	NENE 32	NWNE 16	SWNE 39	SENE 38
		NESE 32	NWSE 33	SWSE 37	SESE 29
	S23	SENE 0.5	NENW 3	NWNW 34.5	SWNW 37
		SENW 26	NESW 19	NWSW 33	SWSW 14.5
		SESW 5	NWSE 1.5	SWSE 1.8	
	S26	NWNE 17	SWNE 0.3	NENW 38	NWNW 24
		SWNW 40	SENW 23	NESW 18	NWSW 40
		SWSW 34	SESW 5		
	S27	NENE 33	NWNE 37	SWNE 36	SENE 40
		NESE 40	NWSE 40	SWSE 40	SESE 40
	S34	NENE 8	SENE 12		
	S35	NENW 2.3	NWNW 19.5	SWNW 26	SENW 1.6
		1046.5 Acres total			

1. Irrigation Pump, panel motor to be provided

Form 42-04/02-499(6) July 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
35-2426					

2. The following **REQUIRED** information must be submitted with this form:

A. The appropriate **FILING FEE**. See instructions for fee amounts.

B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.

C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

Noel J. Beasley
1669 W 600 S, P. ingree, Id. 83262

4. New Owner/Claimant(s)

KBC Farms LLC

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

3062 So. Frontage Rd.

City, State and ZIP Code

Am. Falls, Idaho, 83211

New Telephone Number

(208) 226-2773

5. Date you acquired the property

April 27-2005

EX. D

Form 6-5489-1 (4/03/04) July 2000

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) KBC Farms LLC by
(include title if applicable) Glaren Geomplin Gen Partner

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims

For Office Use Only

Received by _____ Date _____ Fee _____
 Receipted by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

KBC FARMS LLC

3064 S. FRONTAGE RD (208)226-2773
AMERICAN FALLS, ID 83211

769

Date May 25 - 05 92-41/1241
714

Pay to the
Order of

LDWR

\$25.00

Twenty five dollars & 00/100

Dollars

COLONIAL CLASSIC DIRECT
© 2004 American Bank of Commerce



AMERICAN FALLS OFFICE
590 TYHIE
AMERICAN FALLS, IDAHO 83211

For AO Transfer (Beasley)

Shen Scopin

⑆ 124100417⑆ 17 1400957 5⑈ 0769

MEMORANDUM OF LEASE AGREEMENT
WITH OPTION TO PURCHASE

THIS LEASE, is by and between Noel J. Beasley, 1669 W. 600 S., Pingree, Idaho 83262, hereinafter called the "Lessor", and KBC Farms, LLC, 3062 S. Frontage Road, American Falls, Idaho 83211, collectively hereinafter called the "Lessee"

RECITALS

WHEREAS, the Lessor has agreed to lease farm lands, irrigation systems and equipment to the Lessee for the 2005 crop year, with the Lessee also having an exclusive Option to Purchase the Leasehold as provided herein.

WHEREAS, the parties desire a full written statement regarding the agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this agreement, it is understood and agreed by and between the parties hereto as follows:

THE LEASE AGREEMENT

1. **LEASEHOLD**. The Lessor, for and in consideration of the covenants herein agreed to be kept and performed by the Lessee, does by these presents, demise and lease to the Lessee, the following described real property, fixtures and personal property. (Leasehold).

- (a) The leased real property is 320 acres (MOL) consisting of 255 acres (MOL) pivot irrigated crop land and 65 acres (MOL) non-irrigated land located in Bingham County, Idaho, more particularly described as:

Township 3 South, Range 31, E.B.M.,
Section 33: SE1/4
Section 34: SW1/4

- (b) Together with the irrigation system located on the real property, consisting of:

- (1) 150 hp General Electric motor, serial #FP J607137
(1) Vertiline vertical turbine pump, serial #3807611
(1) Centrifugal booster pump hp 50 hp and serial # unknown
(2) Valley model 8000 center pivots, serial #81180 & #81125

8" PVC mainline from the pump to the pivot points and 4" PVC from the pump North and South to the property boundaries to service the inside corners

The water right appertaining thereto, Water License No. 35-2426.

Excluded from the Lease and the Option to Purchase are Lessor's personal property and the 2004 hay crop which Lessee agrees may remain on the real property.

2. LEASE TERM: The Lease Term of this lease shall be from March 31, 2005 to October 31, 2005. In the event Lessee exercises the option to Purchase, this Lease shall continue to the date scheduled for closing.

3. Lessee shall pay to the Lessor, as Rent for the Lease Term, the following amounts, lawful money of the United States of America, at the time and in the manner hereinafter provided.

3.1. Basic. The Basic Rent for the Leasehold is Thirty Thousand and No/100 Dollars (\$30,000.00) payable in advance.

3.2. Additional Financial Details. The Rent shall be net to Lessor. Lessee shall pay all expenses, charges, and obligations relating to the Leasehold and the 2005 crop, including fertilizer, seed, chemical applications, fuel, power and the like and the maintenance and repair of the irrigation system with exception of only repairs to the irrigation system, which are not due to the fault of the Lessee or Lessee's invitees, employees, members or agents and which exceed \$2,000 for a single repair. Lessor shall be entitled to the 1st half, 2005 Farm Service Agency payment and in the event Lessee purchases the option herein and is otherwise not in default of this lease, Lessee shall be entitled to the 2nd half, 2005 Farm Service Agency payment. Lessor will endorse and turn over to Lessee said subsidy check when received. In addition, Lessee shall be responsible for those costs which will be incurred due to the requirements of Lessee under Article 4 "COVENANTS OF THE LESSEE". These amounts are deemed part of the Rent, which the Lessor may demand payment thereof and collect as Rent. Upon execution hereof, Lessor shall provide to Lessee any necessary releases of UCC filings or other security interest in the 2005 crop.

4. COVENANTS OF THE LESSEE: The Lessee agrees as follows:

4.1. Rent. To pay the Rent at the time and in the amounts specified in Article 3 of this Agreement.

4.2. Taxes and Assessments. Provided Lessee does not exercise the Option to Purchase, Lessor shall pay all 2005 real and personal property taxes, and assessments made against the Leasehold and irrigation system. Assessments include, without limitation, any amounts owed to a governmental entity which are based upon the use, ownership or value of the Leasehold.

4.3. Expenses. Lessee covenants that it will pay all costs and expenses incident to the Leasehold through the term hereof and, in the event Lessee exercises the Option herein, to the date of closing. Those include, without limitation, maintenance, repair or replacement, as needed, of the leased irrigation equipment (with exception only for a repair or replacement of the pump or mainline which is not due to Lessee's fault and which exceeds \$2,000 per repair or replacement); utility charges; costs for delivery of irrigation water to the Leasehold; and those costs and expenses

to be incurred under the following subparagraphs 4.4, 4.5, and 4.6

4.4 Farming Practices and Expense. Lessee shall farm the Leasehold in a good and farmer like manner consistent with accepted agricultural practices in the general area and shall supply, at Lessee's expense, all necessary labor, equipment, fertilizer, seed, and all other materials and supplies that are necessary for the preparation, fertilization, and irrigation of the ground and harvesting of the crops provided, however, that if Lessee pays the Option Payment herein and has enrolled the water rights in the 2005 Ground Water Association Lease Program, Lessee shall not be required to raise a crop. In the event Lessee does not exercise the Option to Purchase, the Lessee shall (1) remove the remainder of the existing alfalfa crop; (2) reseed the 255 acres with a new alfalfa crop and (3) otherwise prepare the ground for the 2006 crop year all at Lessee's expense and all of which shall be completed no later than October 15, 2005.

4.5 Weed Control. At his own expense, Lessee shall use all reasonable efforts to keep the Leasehold free from weeds, insects, and disease in a manner consistent with accepted agricultural practices in the general area of the Leasehold.

4.6 Improvements Maintained. At his own expense, Lessee shall maintain, repair, and replace all structures, fixtures, fences and other improvements located on the Leasehold during the Term, and shall maintain the same in as good a condition as received, reasonable wear and tear excepted.

4.7 Lessee Improvements. Improvements to the Leasehold by the Lessee shall be undertaken only upon prior written consent of the Lessor, which may not be unreasonably withheld. Improvements shall be at the Lessee's expense, unless it is agreed in writing by Lessor that the Lessor will pay any part thereof. Any improvements shall become the property of the Lessor, upon expiration of this Lease.

4.8 Land Use. The Lessee shall not change the existing agricultural use of the Leasehold, without the written consent of the Lessor. Lessor hereby consents and will assist Lessee in the enrollment of the farm in the 2005 Spring Ground Water Association's Lease Program; and, in the event Lessee pays the Option Payment herein and has exercised the Option to Purchase, Lessor shall consent and assist Lessee with the enrollment in the 2005 Fall CREY Program.

4.9 Waste. Lessee shall not commit any waste or strip the Leasehold, and will maintain the Leasehold, together with all improvements thereon, in as good a condition as they were upon Lessee's entry into possession.

4.10 Return of Leasehold. Lessee shall quit and surrender possession of the Leasehold at the expiration of the Term, and will leave on the Leasehold all of the leased property, any replacements therefor, as well as all improvements of whatever character, whether placed thereon by the Lessor or by the Lessee.

4.11 No Liens. Lessee shall not allow any liens or encumbrances against the Leasehold, which will, in any way affect the interest of the Lessor. PROVIDED, HOWEVER, that

the Lessee shall be entitled to create a security interest in crops, provided the same may not, in any event, attach to the lands and irrigation equipment.

4.12 Liability Insurance. Lessee shall save the Lessor harmless from any liability of any kind or nature arising by reason of the Lessee's use and operation of the Leasehold. Lessee shall maintain liability insurance coverage covering Lessee and Lessee's indemnities herein in an amount no less than One Million Dollars (\$1,000,000) per occurrence.

4.13 Casualty Insurance. The Lessee shall bear the risk of loss for any damage to, or loss of the crop, the irrigation system and improvements, if any, located on the Premises. The Lessee agrees to maintain insurance coverage to protect against damage or loss to the full replacement value, to be approved by Lessor.

4.14 Insured. On the insurance policies, designated in 4.12 and 4.13, the Lessor shall be named as an additional insured and such policy shall not be cancelled by the insurance company without at least thirty (30) days prior written notice to Lessor. Proof of insurance will be furnished within ten (10) days of the Effective Date of this Lease and the amount of insurance provided under 4.13 shall be subject to Lessor's approval.

4.15 Hazardous Substances. Except as provided for in this paragraph, Lessee shall not have upon the Leasehold any Hazardous Substances. A Hazardous Substance is defined as any solid, gas, or liquid whose acquisition, storage, use, release, escape, discharge, or disposal is in any way, or at any time, prohibited or regulated by any federal, state, or local laws. These include, without limitation, those Substances that any Law defines as being toxic, hazardous, or a contaminant.

(a) The prohibition against Hazardous Substances does not apply to Lessee's use of Substances which are used in the ordinary and regular course of agricultural practices. Provided, however:

(1) Lessee must comply with all laws applicable to those Substances; and

(2) Lessee shall be strictly liable for any costs, damages, expenses, or fines which arise from the Substances.

(b) If there is a dispute as to what Substances Lessee may use, Notice shall be given and Lessee shall immediately remove the Substances from the Leasehold until there has been a determination of whether the Substances are properly on the Leasehold.

5. COVENANTS OF THE LESSOR: Lessor agrees as follows:

5.1 Quiet Enjoyment. Lessor shall provide the Lessee with quiet enjoyment of the Leasehold during the Term of this Lease, provided that the Lessee is in full compliance with all of the terms and conditions of the Lease: RESERVING unto the Lessor, however, the right, upon

reasonable notice, to come upon the Leasehold hereby leased, for the purpose of inspection of the Leasehold, and to assure compliance with the terms hereof, provided, however, this reservation does not obligate the Lessor to so inspect.

6. ENVIRONMENTAL REPRESENTATIONS: Lessor represents that he has no knowledge of any conditions or circumstances associated with the Leasehold that could give rise to any environmental liability or cost that could in any way effect the real property, the assets, or Lessee's ability to carry out its obligations under the Agreement, or fanning operations contemplated by the Lessee.

6.1 The real property is not subject to any threatened or outstanding order or judgment, consent decree, or similar actions of any government authority or other person nor is it subject to any judicial or docketed administrative proceeding respecting (i) any environmental law; (ii) any remedial action; or (iii) any environmental liability or cost arising from a release or a threatened release.

6.2 The real property is not a treatment, storage or disposal facility requiring any environmental permit under any environmental law, the regulations thereunder, or any state agency. Lessor is in compliance with all environmental laws, to the Lessor's knowledge.

6.3 No Environmental Lien. To the Lessor's knowledge, no unrecorded environmental liens are attached to the real property.

6.4 To the Lessor's knowledge, there is not now on or in the real property (i) any surface impoundments; (ii) any polychlorinated biphenyls ("PCBs") used in the electric or other equipment, or (iii) any asbestos-containing material.

7. MUTUAL COVENANTS: The Lessor and Lessee agree as follows:

7.1 Time is of Essence. Time is of the essence of this Agreement.

7.2 Assignment and Sublease. Lessee shall not sublet the above described Leasehold or any portion thereof during the full term of this Lease, except as herein provided, nor shall the Lessee assign this Lease or any part thereof, without first obtaining the written consent of the Lessor, which may not be unreasonably withheld. The Lessee shall have the right to sublet to any Lessee controlled entities, provided, the Lessee must be the majority owner of the assignee entities, there will be no change in their majority ownership thereof and the Lessee shall remain liable for the performance of this Lease.

7.3 Government Payments. Both Lessor and Lessee agree that they will execute all documents necessary to enable the Farm Service Agency payments attributable to the operation of the Leasehold to be paid as set forth in paragraph 3.2 hereof.

7.4 Lessee Inspection. Lessee has personally inspected the leased properties, both real and personal, knows the amount, content, and condition thereof, and takes the same "AS IS",

and Lessee does not depend upon any representations or warranties of the Lessor expressed or implied. Lessor hereby disclaims any and all warranties, including any implied warranty of fitness or merchantability.

7.5 Termination. The Lease may terminate if there is a default, as hereafter provided for, and this Lease will automatically terminate at the end of the Term. At the end of the Term, Lessee shall without further demand or notice surrender the Leasehold to the Lessor. The termination of this Lease shall also terminate the Option to Purchase.

7.6 Condemnation. If any part of the Leasehold is condemned, Lessee shall have a claim against the Condemnation proceeds for the value of any crops lost or additional expenses incurred in the current crop year. Unless the Option to Purchase is exercised and closed by Lessee, all the other money payable will be the sole property of the Lessor.

7.7 Entire Agreement. This Lease and the exhibits constitute the entire agreement between the Parties. Any prior or contemporary conversations or writings are considered a part of this Lease and are extinguished, including the Commercial Invest Real Estate Purchase and Sale Agreement, dated March 31, 2005, ID #05-005. This Lease may not be modified by performance, waiver or by agreements not reduced to writing. No subsequent amendment or modification of this Lease shall be binding upon the Lessor or Lessee unless it is written and signed by all Parties. Lessee acknowledges that he is not relying on any statements, representations or warranties made by either the Lessor, or any employee, agent, or representative of the Lessor.

7.8 Effective Date. This Lease shall become effective as of the date provided in paragraph 2.

8. DEFAULT. The occurrence of any of the following events shall be deemed to be in default under the terms of this Lease:

- (a) Lessee abandons the Premises;
- (b) Lessee fails to perform or violates any term, obligation, condition, or covenant required to be performed by Lessee pursuant to this Lease, and such failure is not cured within ten (10) days after written notice of such failure. In the event such failure cannot reasonably be cured within such ten (10) days, Lessee shall be in default if Lessee fails to commence the cure within such ten (10) days or thereafter fails to diligently prosecute such cure to completion.
- (c) Lessor fails to perform or violates any term, obligation, condition, or covenant required to be performed by Lessor pursuant to this Lease, and such failure is not cured within ten (10) days after written notice of such failure. In the event such failure cannot reasonably be cured within such ten (10) days, Lessor shall be in default if Lessor fails to commence the cure within such ten (10) days or thereafter fails to diligently prosecute such cure to completion.

9. REMEDIES. In the event of default, the non-defaulting party shall have the option to take any or all of the following actions, without further notice or demand of any kind to any

guarantor or defaulting party of this Lease, or to any other person.

9.1 Notice of Default. If the default is corrected as provided herein, the Lease shall then continue in full force and effect. If the default is not cured or corrected as provided, the non-defaulting Party may pursue the remedies set forth herein and any and all remedies provided by law or in equity.

9.2 Remedies for Lessor. In the event of a default of Lessee, the Lessor may re-enter the Leasehold, take full possession of all the properties and the crop and exclude the Lessee therefrom. A retaking of the Leasehold by the Lessor shall not be a termination of the Lease, and the Lessee shall remain liable for payment of all obligations and the performance of all other terms and conditions contained herein, unless at the time of retaking the Lessor gives Notice the retaking is intended to terminate the Lease. Provided, however, the Lessor will attempt to relet the Leasehold in a commercially responsible manner. Lessor may, but shall have no obligation to harvest or to care for Lessee's crop or to otherwise farm the property upon Lessee's default. In the event Lessor cares for the crop, Lessor shall be entitled to reimbursement for Lessor's expenses and labor and Lessor may sell the crop and recoup Lessor's expenses and labor from the net proceeds thereof. In the event of Lessee's default, Lessor agrees to negotiate with any creditors holding a secured interest in Lessee's crop to farm the crop or to allow access to the property by third persons hired by the secured creditor to care for the crop, subject to payment of Lessor's expenses and damages due to Lessee's non-performance of the lease.

9.3 Remedies for Lessee. If the Lessor is in breach of any of the terms of this Lease, Lessee may pursue all available remedies, as allowed by law or in equity.

10. BANKRUPTCY. If Lessee files a petition in bankruptcy or if Lessee is adjudicated bankrupt, or if Lessee makes a general assignment for the benefit of creditors, or if in any proceeding based upon the insolvency of Lessee a receiver or trustee is appointed, then Lessor may terminate this Lease upon written notice, provided, however, that neither bankruptcy, insolvency, an assignment for the benefit of creditors, nor the appointment of a receiver or trustee shall affect this Lease or permit its termination so long as the covenants and conditions of this Lease are performed by Lessee, or someone claiming through Lessee.

11. ASSUMPTION OF LIABILITY/INDEMNITY.

11.1. Damage to Leasehold. Lessee assumes all responsibility for damage to the Leasehold occurring during the term hereof or any extension thereof, caused by invitees, licensees, or persons on or around Leasehold or common areas due to Lessee's occupation of this property. Lessee agrees to notify Lessor immediately of such damages, and before making such repairs, to respect Lessor's preference for keeping the Leasehold in a uniform condition.

11.2. Indemnity. Lessee agrees to indemnify, defend, and hold harmless Lessor, its agents and employees, including attorney's fees and costs, for (a) any claim, demand, cause of action, suit, or any other liability or obligation of any kind related to injury or loss to person or property which occurs on or about the Leasehold; (b) for any loss, expense, claim, demand, cause

of action, suit, injury, loss of property, or any other liability or obligation of any kind related to Lessee's obligations hereunder and for Lessee's default of this lease agreement; (c) for loss or damage due to the willful misconduct or negligence of Lessee, its agents, employees or invitees; and (d) loss or damage to the Leasehold in excess of reasonable wear and tear. Payment or reimbursement to Lessor is due on demand. Lessor's failure to demand amounts owing is not deemed a waiver and Lessor may demand payment or reimbursement at any time including after the time of move out.

12. LAWS, WASTE, NUISANCE. Lessee shall at all times:

(a) Comply with all governmental laws, ordinances, and regulations now in force, or which hereafter may be in force, of any lawful governmental body or authority having jurisdiction of the Premises;

(b) Promptly procure, maintain, and comply with all permits, licenses and other authorizations required for the use of the Leasehold as above stated;

(c) Keep the Leasehold free of anything which constitutes a public or private nuisance; and

(d) Permit no waste, abuse, deterioration, or destructive use of the Premises to occur.

13. INTERPRETATION: When interpreting this Lease, the following guidelines shall apply:

(a) The words "Lessor" and "Lessee" shall be taken to mean every person and entity executing this document as Lessor or Lessee.

(1) All Parties referred to jointly, e.g., two or more lessees as "Lessee" shall have joint and several Liability.

(b) The singular pronoun shall be deemed to include an individual partnership, corporation, or a group of two or more individuals or entities.

(c) The necessary grammatical changes shall be assumed, as if fully expressed, when necessary to make the provisions of this Lease apply in the plural sense or either the masculine, feminine, or neuter genders.

(d) The use of captions, paragraphs, subparagraphs, and sub-subparagraphs are used for convenience and are not intended to limit the scope or intent of the contents. Where a caption of a paragraph appears in the text of the Lease, however, it is intended to have the same meaning as given to the captioned paragraph.

(e) All exhibits are incorporated by reference.

14. NOTICES. All Notices which are to be given hereunder shall be in writing and be delivered to the other Party personally or by certified mail, return receipt requested. If service is made by mail, it shall be deemed to have been made at the time it is deposited in the mail, postage prepaid, and addressed to the other Party, at the addresses of:

Lessor: Noel J. Beasley
1669 W. 600 S.
Pingree, Idaho 83262

Lessee: KBC Farms, LLC
3062 S. Frontage Road
American Falls, Idaho 83211

15. SUCCESSORS. This Lease shall be binding upon and inure to the benefit to the Parties' heirs, assigns, and successors-in-interest.

16. OPTION TO PURCHASE. In consideration of the additional sum of One Hundred Thousand Dollars (\$100,000.00) (herein Option Payment) payable by Lessee on or before May 20, 2005, the Lessor grants to the Lessee the exclusive Option to Purchase the Leasehold as described in Paragraph 1 hereof. Said Option Payment shall be NON-REFUNDABLE. Lessee shall not receive a refund of the Option Payment under any circumstance.

16.1 Terms of Sale: The terms for the sale shall be set out in Schedule A which is attached hereto and incorporated by reference.

16.2 Exercise. This Option may be exercised by Lessee subject to the following conditions (1) Lessee must be in full compliance with the terms of and conditions of the Lease; (2) Lessee delivers as provided herein written notice to Lessor on or before October 31, 2005 giving notice of Lessee's exercise of the Option to Purchase to Lessor and setting a closing date no later than sixty one (61) days of the delivery date of the written notice. Lessee understands and agrees that the last date for delivery of such notice shall be October 31, 2005 to be closed no later than December 1, 2005. In the event Lessee fails to comply with any of said conditions 1, 2, and 3 of this paragraph 16.2, or the Option to Purchase is not timely closed by Lessee, this Option to Purchase shall forever terminate. In the event Buyer, fails to timely close, Buyer shall prepare the land for the 2006 crop year and replace the crop at Buyer's expense as provided in paragraph 4.4 of the Lease.

17. AUTHORITY: The persons executing this lease on behalf of a corporation, limited liability company, partnership or other entity, represent that they have authority to enter into the Lease, and the right to obligate the entity to this agreement.

18. ACKNOWLEDGMENT: Each of the Parties acknowledge that Jack H. Robison of the law firm of Jones, Chartered represents Lessor. Lessee is advised that if they have any questions about this transaction, they should consult with their own attorney.

19. REPRESENTATION CONFIRMATION. Check one (1) box in Section 1 below and one (1) box in Section 2 below to confirm that in this transaction Intermountain Land Exchange (Allen Rollins), the brokerage involved, had the following relationship with the Buyer and Seller.

Section 1:

- A. ☐ The broker working with the Buyer is acting as an Agent for the Buyer.
- B. ☒ The broker working with the Buyer is acting as a limited dual agent for the Buyer.
- C. ☐ The broker working with the Buyer is acting as a Nonagent for the Buyer.

Section 2:

- A. ☐ The broker working with the Seller is acting an Agent for the Seller.
- B. ☒ The broker working with the Seller is acting as a limited dual agent for the Seller.
- C. ☐ The broker working with the Seller is acting as a Nonagent for the Seller.

Each party signing this document confirms that he or she has received, read and understood the Agency Disclosure Brochure and has elected the relationship confirmed above. In addition, each party confirms that the broker's agency office policy was made available for inspection and review. EACH PARTY UNDERSTANDS THAT HE OR SHE IS A "CUSTOMER" AND IS NOT REPRESENTED BY A BROKER UNLESS THERE IS A SIGNED WRITTEN AGREEMENT FOR AGENCY REPRESENTATION.

Lessor agrees to pay the real estate broker, Intermountain Lane Exchange, Inc., Allen Rollins a six percent (6%) commission on the \$30,000 lease payment and the \$100,000 Option Payment when the Option Payment is paid. In the event the Option Payment is not paid, no commission will be paid to the real estate broker.

LESSOR:

Noel J. Beasley
Noel J. Beasley

4-28-05

LESSEE:

KBC FARM3, LLC

By: Shawn O. Simpson

STATE OF IDAHO)

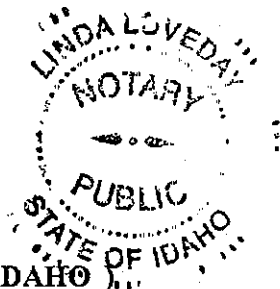
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County of SAN JUAN)

On this 28TH day of APRIL, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Noel J. Beasley, known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(seal)



Linda Loveday
NOTARY PUBLIC FOR IDAHO
Residing at: Bannock County - Pocatello, Id
My Commission Expires: 5/6/06

STATE OF IDAHO)

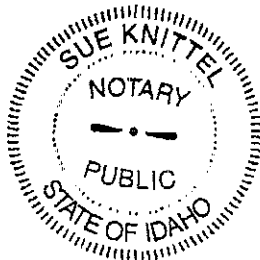
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County of Lewer)

On this 27th day of April, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared Klaire A. Aspin known or identified to me to be the member of the limited liability company who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(seal)



Sue Knittel
NOTARY PUBLIC FOR IDAHO
Residing at: Pocatello
My Commission Expires: 1-11-06

LEASE SCHEDULE A

OPTION TO PURCHASE

The Parties to this Agreement are the same parties as in the Lease to which this Agreement is attached. Those persons and/or entities referred to as the Lessor are herein referred to as the "Seller" and those Persons referred to as the Lessee are herein referred as the "Buyer."

1. **OPTION PROPERTY:** Subject to due exercise of the Option to Purchase as set forth in the Lease, the Seller will sell, and Buyer will buy, on the terms and conditions contained herein, the property described in paragraph 1 of the Lease entitled Leasehold. The property referred to herein as the "Real Property," is particularly described in the Lease, paragraph 1(a), together with the water right, License No. 35-2426. The reference hereinto as the Personal Property and Fixtures shall mean the irrigation equipment described in the Lease paragraph 1(b).

A. The grant of the Real Property shall include all tenements, hereditaments and appurtenances belonging or appertaining thereto including, without limitation, existing water and mineral rights.

2. **ENCUMBRANCES:** Except as provided for in the following subparagraphs A and B, title to the Real Property, Personal Property and Fixtures shall be conveyed by Warranty Deed or Bill of Sale, free and clear of all defects.

A. The Buyer shall take the Real Property subject to the "Encumbrances" which are defects or claims which (1) can be discovered by an inspection or survey of the Real Property, (2) government regulations and restrictions, and (3) all easements.

B. Exhibit 1 attached hereto is a copy Title Insurance Commitment dated April 5, 2005, File No. 102340-B from the Closing Agent. Buyer takes the property subject only to the exceptions set forth in said Commitment, Schedule B, Section Two, Items 1 through 9.

3. **INSPECTION:** The Buyer acknowledges that Buyer has at the commencement of the Lease, inspected the Real Property, the Personal Property and Fixtures and has determined the apparent boundaries of the Real Property, and the condition of the Real Property, Personal Property and Fixtures; and he is willing to accept the same "AS IS" with no warranties all of which are disclaimed as provided in the Lease at paragraph 7.4 which paragraph by this reference is incorporated herein as if set forth verbatim.

A. In determining the boundaries and the condition of the Real Property, Personal Property, and Fixtures the Buyer has not relied upon any statements made by the Seller, or any representative of the Seller, and the Buyer acknowledges that any statements made by the Seller, or the Seller's

representative, are only statements of opinion and not intended for the Buyer to rely upon.

4. PURCHASE PRICE: The Purchase Price is as follows:

- A. The total Purchase Price is Two Hundred Eighty Five Thousand and No/100 Dollars (\$285,000.00)
- B. Buyer shall receive as a credit towards the purchase price the Thirty Thousand and No/100 Dollars (\$30,000.00) base rent and the One Hundred Thousand and No/100 Dollars (\$100,000.00) Option Payment referenced in the Lease for a total credit of One Hundred Thirty Thousand and No/100 Dollars (\$130,000.00). The balance of the Purchase Price in the amount of One Hundred Fifty Five Thousand and No/100 Dollars (\$155,000.00) shall be paid in cash upon Closing.

5. TAXES AND PRORATIONS: Buyer shall be responsible for all Taxes for 2005 which include any assessments on the Real Property, Personal Property and Fixtures and all expenses associated with the 2005 crop.

6. FIXTURES & PERSONAL PROPERTY: The title to the Personal Property and Fixtures shall be transferred by Bill of Sale at the time title to the Real Property is transferred.

7. RISK OF LOSS: The Buyer shall have the Risk of Loss for all damages and losses to the 2005 crop, the Real Property, Personal Property, and Fixtures.

8. TITLE: Seller shall provide Buyer with a policy of title insurance in the standard "Purchaser's" form provided by First American Title Company of Blackfoot, Idaho. The title insurance insuring the Buyer's title is free from any defects except those listed under "Encumbrances."

- A. Buyer acknowledges receipt of and approves the commitment for the issuance of the title insurance attached hereto as Exhibit 1.
- B. Upon Closing, Seller shall immediately deliver to the Buyer the policy of title insurance. It shall insure Buyer's title is free from any defects except the Encumbrances. Seller understands that the title to the property is subject to the spousal community property interest of Patricia Beasley, now deceased. Seller agrees to clear the title of such interest or claim either through probate or other procedure which is acceptable to First American Title Company and the title insurer.
- C. If the Seller's title does not conform to the requirements of this paragraph, the Buyer may, at his election, pay the monies reasonably necessary to make the title conform, and deduct the amounts paid from the Purchase Price.

- 1 Before paying any such monies, the Buyer shall give the Seller written Notice. The Seller shall have five (5) business days from the date the Buyer serves the Notice to give the Buyer Notice that the Seller objects to the payment. If objection is made, no payment shall be made pending further agreement of the parties, or an order from a court of competent jurisdiction.
- 2 Those items in the Title Commitment, (Exhibit 1), which the Buyer does not take subject to will be cleared prior to Closing, or cleared with the Purchase Price paid upon Closing.

9. EXPENSES: The Expenses incurred incident to this Agreement are attorney's fees, recording fees, title insurance premiums and the Closing Agent's fees. They shall be paid as set out in this paragraph.

- A. The Seller shall pay title insurance premiums.
- B. Each party will pay their own attorney's fees.
- C. The parties shall each pay one-half of all remaining Expenses which include, without limitation, recording and Closing Agent's fees.

10 CLOSING: This Transaction will be closed at the hour of 2:00 p.m. on or before the 61st day after the Option is exercised. In the event the 61st day is a non-business day, the Closing shall be the next business day. Unless the closing date is extended as provided herein, the last available date for a closing shall be December 1, 2005 (based upon Buyer's delivery by October 31, 2005 of written notice exercising the option). Closing will be in the offices of First American Title Company of Blackfoot, 156 W. Judicial, Blackfoot, Idaho (Closing Agent)

- A. The Buyer shall deliver to the Closing Agent the amount of the Purchase Price payable at Closing, and Buyer's portion of the Expenses.
- B. Seller shall sign or deliver to the Closing Agent a Warranty Deed and Bill of Sale in the form required herein.
- C. The parties will execute those documents necessary to complete the Agreement.

11. CLOSING AGENT: The parties appoint First American Title Company of Blackfoot, Idaho as the Closing Agent. The Closing Agent's duties are as specified in this paragraph, and are to be carried out for the purpose for completing the conveyance of the Real Property and disbursing the monies received in accordance with the terms of the Agreement.

- A. On Seller's behalf, obtain and deliver to Buyer, the commitment for, and policy of, title insurance.

- B. Prepare from forms, or receive from the parties, the Warranty Deeds.
- C. Record and deliver all Warranty Deeds for the Real Property.
- D. Deliver Bill of Sale.
- E. The Closing Agent shall make such arrangements as are necessary as to cure or complete the requirements set forth in Exhibit 1, Schedule B, Section One, paragraphs a through f.
 - 1. The Closing Agent shall not pay any monies from the Purchase Price for any of said requirements unless all of them can be cured
- F. Receive the Purchase Price payable by Buyer at Closing
- G. From the Purchase Price, pay the Seller's obligations under this Agreement, and remit the remaining balance to the Seller.
 - 1. Disbursements to occur when the Closing Agent has determined the title and policy of title insurance will be in accordance with the paragraph 8 entitled "Title" herein.
- H. If the Closing Agent, in its reasonable judgment, believes that the transaction cannot be Closed in accordance with the terms of this Agreement, or a Party makes demands upon the Closing Agent. which are inconsistent with this Agreement. the Closing Agent may cease doing all work hereunder.
 - 1. Upon ceasing work, the Closing Agent will hold all monies and documents until it receives new instructions from both Parties, or an order from a Court of competent jurisdiction. If neither occurs within forty-five (45) days from the date of the inconsistent demand, and no documents have been recorded, it shall return the monies and document to the Parties from whom they were received. If documents have been recorded, the Closing Agent may either continue to hold, or deliver the monies and documents to the Clerk of any Court of competent jurisdiction. Upon deliver of the monies and documents, the Closing Agent shall have no further responsibilities hereunder.

12. DATE OF POSSESSION: The Date of Closing shall be the Date of Possession. Upon the Agreement being closed, the Buyer shall have the right. as the owner not as a tenant, to take possession of the Real Property, Personal Property, and Fixtures.

13. DEFAULT: It is a Default if a Party fails to carry out any of the terms contained in either this Agreement, or in any document executed pursuant to this Agreement.

14 REMEDIES: If there is a Default, the Parties have all Remedies at law or equity, which may be pursued individually or collectively, and serially or concurrently.

A. If the Buyer elects rescission, his right to rescind will be to all the Real Property, Personal Property and Fixtures, but not to individual parcels, personal property or fixtures.

15 NOTICE: All Notices required to be given hereunder shall be made in writing and served either personally or by certified mail. If Notice is given by Certified Mail, service shall be deemed to be completed at the time it is deposited in the U.S. Mail, postage prepaid, and addressed to the other party. For the purpose of mailing, Notices shall be sent to the following addresses:

SELLER: Noel J. Beasley
1669 W. 600 S.
Pingree, Idaho 83262

BUYER: KBC Farms, LLC
3062 S. Frontage Road
American Falls, Idaho 83211

A copy of all Notices shall be served on the Closing Agent at 156 W. Judicial, Blackfoot, Idaho 83221.

16 TIME: Time is of the essence in the performance of this Agreement.

17 WAIVER: The failure of either Party to strictly enforce the terms hereof shall not constitute a waiver. Any terms that have not been strictly enforced may be enforced after giving ten (10) days Notice of intent to do so.

18 INTERPRETATION: In Interpreting this Agreement the following shall apply.

A As context indicates, the feminine, masculine and neuter genders shall include one another, and the singular includes the plural,

B. The captions preceding each paragraph are primarily for convenience. However, where the caption of a paragraph appears in the text of the Agreement, it is intended to have the same meaning as given to it in the captioned paragraph.

C The words "Seller" and "Buyer" shall be taken to mean every person and entity executing this document as Lessor or Lessee. However, the Sellers shall have joint and several liability only to the extent that it exists between husband and wife. Other than that, each of the Sellers shall be liable only for

his own actions

- D. The terms, which appear here and in the Lease to which this Agreement is attached including, without limitation, "Basic Rent," "Option" and "Exercise" shall have the same meaning herein.

19. SUCCESSORS: This Agreement shall be binding upon, and inure to the benefit to the parties and an of their successors-in-interest.

20. EFFECTIVE DATE: The representations and commitments herein shall be deemed to have been made at the time of the effective date of the Lease.

21. INTEGRATION: Except for the "Lease with Option to Purchase," this Agreement incorporates, and there are no other prior or contemporaneous oral or written agreements between the parties which involve the subject matter of this Agreement.

22. MODIFICATION: This Agreement may not be modified by either performance or orally. It may be modified only by a writing signed by all Parties.

23. ACKNOWLEDGMENT: Each of the parties acknowledge such party has read this Agreement, knows it is an important legal document, and that if such party has any questions it should be reviewed with such parties; attorney. Buyer understands the attorney who prepared this Agreement, Jack H Robison, of the firm of Jones, Chartered is representing Seller exclusively.

24 REPRESENTATION CONFIRMATION. Check one (1) box in Section 1 below and one (1) box in Section 2 below to confirm that in this transaction Intermountain Land Exchange (Allen Rollins), the brokerage involved, had the following relationship with the Buyer and Seller.

Section 1:

- A. ☐ The broker working with the Buyer is acting as an Agent for the Buyer.
- B. ☒ The broker working with the Buyer is acting as a limited dual agent for the Buyer.
- C. ☐ The broker working with the Buyer is acting as a Nonagent for the Buyer.

Section 2:

- A. ☐ The broker working with the Seller is acting an Agent for the Seller.
- B. ☒ The broker working with the Seller is acting as a limited dual agent for the Seller.
- C. ☐ The broker working with the Seller is acting as a Nonagent for the Seller.

Each party signing this document confirms that he or she has received, read and understood the Agency Disclosure Brochure and has elected the relationship confirmed above. In addition, each party confirms that the broker's agency office policy was made available for inspection and review. EACH PARTY UNDERSTANDS THAT HE OR SHE IS A "CUSTOMER" AND IS NOT REPRESENTED BY A BROKER UNLESS THERE IS A SIGNED WRITTEN AGREEMENT FOR AGENCY REPRESENTATION.

Lessor agrees to pay the real estate broker, Intermountain Lane Exchange, Inc., Allen Rollins a six percent (6%) commission on the \$155,000 balance paid for the purchase of the property to be paid at closing.

25. INITIALS: The parties to the Lease each initial this document to indicate they have read it and understand the terms thereof.

Noel J. Beasley

KBC FARMS, LLC

By: NJB

By: _____

By: KRK

By: KK

4-28-05

EXHIBIT 1



First American Title Company

168 West Pacific, Blackfoot, ID 83221
Phone(208) 785-0320 - Fax (208) 785-6276

Escrow Officer: **Lori Day**
Title Officer: **Michelle Kofoed**

To: **Intermountain Land Exchange**
1110 Call Creek, Ste. 3
Pocatello, ID 83201

Order No.: **102340-B**

Attn: **Allan Rollins**

Your Ref:

Re: Property Address: **not addressed, Aberdeen, ID 83210**

COMMITMENT FOR TITLE INSURANCE

Issued by

FIRST AMERICAN TITLE INSURANCE COMPANY

Agreement to Issue Policy

We agree to issue a policy to you according to the terms of this Commitment.

When we show the policy amount and your name as the proposed insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within six months after the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is issued and then our obligation to you will be under the Policy.

Our obligation under this Commitment is limited by the following:

- The Provisions in Schedule A.
- The Requirements in Schedule B-1.
- The Exceptions in Schedule B-2.
- The Conditions.

This Commitment is not valid without Schedule A and Section 1 and 2 of Schedule B.

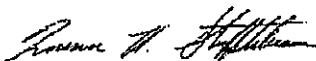
First American Title Insurance Company

By:  President

Attest:  Secretary

Countersigned

First American Title Company Inc.



**SECOND COMMITMENT
SCHEDULE A**

1. Commitment Date : **March 30, 2004 at 5:00 pm**

2. Policy or Policies to be issued:

Policy Amount Premium Amount

Owner's Policy

Standard Owner's Policy (10/17/92) Form 1402-92

\$ 275,000.00

\$ 1,130.00

with applied credit of

\$ None

Proposed Insured:

KBC Farms LLC

Loan Policy

Standard Loan Policy (10-17-92) Form 1056-92

\$ 275,000.00

\$ 75.00

with applied credit of

\$ None

Proposed Insured:

Northwest Farm Credit, its successors and/or assigns as their respective interests may appear.

Endorsements:

\$

3. A fee simple interest in the land described in this Commitment is owned, at the Commitment Date by:

Noel J. Beasley, a married man, subject to the community interest of his spouse, Patricia Rae Beasley, on the date of acquiring title

4. The land referred to in this Commitment is described as follows:

TOWNSHIP 3 SOUTH, RANGE 31 E.B.M., BINGHAM COUNTY, IDAHO

SECTION 33: SE¹/₄

SECTION 34: SW¹/₄

EXCEPTING AND RESERVING TO THE UNITED STATES ALL OIL AND GAS.

Commonly known as: not addressed,
Aberdeen, Idaho 83210

SCHEDULE B-SECTION ONE
REQUIREMENTS

The following requirements must be met:

- (a) Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.
- (b) Pay us the premiums, fees and charges for the policy
- (c) Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
- (d) You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements and exceptions.
- (e) Release(s) or Reconveyance(s) of item(s) **10 and 11**
- (f) If the person named in Schedule A, paragraph 3, is presently married, the spouse must join in any conveyance or encumbrance of the subject property pursuant to requirements of chapter 10, title 55, Idaho Code, or we must be furnished satisfactory proof that; (1) the subject property is not vestee's principal residence, (2) the land is not claimed as homestead and the address of the principal residence of vestee, or (3) proof that the vested owner is not married.

SCHEDULE B -SECTION TWO

EXCEPTIONS

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

PART I:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (A) Unpatented mining claims; (B) Reservations or exceptions in patents or in Acts authorizing the issuance thereof; (C) Water rights, claims or title to water; whether or not the matters excepted under (A), (B) or (C) are shown by the public records.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. 2005 taxes are an accruing lien, not yet due and payable until the fourth Monday in November of the current year. The first one-half is not delinquent until after December 20 of the current year, the second one-half is not delinquent until after June 20 of the following year. Taxes which may be assessed and entered on the property roll for 2005 with respect to new improvements and first occupancy, which may be included on the regular property, which are an accruing lien, not yet due and payable.

General taxes as set forth below. Any amounts not paid when due will accrue penalties and interest in addition to the amount stated herein:

Year	Original Amount	Amount Paid	Parcel Number	Covers
2004	\$369.08	\$184.54	RP0021900	Sec 33
2004	\$384.60	\$192.30	RP0022000	Sec 34

Homeowners Exemption is not in effect for 2004
Circuit breaker is not in effect for 2004

8. Levies and assessments of American Falls-Aberdeen Ground Water District
9. Easement for Power line granted to Idaho Power Company, recorded as Instrument No. 202062. (Covers the SE¼ of Sec 33)

10. Mortgage and Fixture Filing dated February 25, 2002, to secure an indebtedness of \$240,000.00 and any other amounts and/or obligations secured thereby.
Recorded: March 7, 2002, as Instrument No. 510229
Mortgagor: Noel J. Beasley and Patricia Rae Beasley, husband and wife
Mortgagee: Zions First National Bank
Assigned to U.S. Bank Trust National Association, as Custodian/Trustee, by instrument recorded March 7, 2002, as Instrument No. 510230.
(covers this and other property)
11. Financing Statement covering Irrigation apparatus, equipment and fixtures
Recorded: March 7, 2002, as Instrument No. 510231
Debtor: Noel J Beasley
Secured Party: Zions First National Bank.
(covers this and other property)

NOTE: The foregoing numbered exceptions (1-6) may be eliminated in an ALTA Extended or EAGLE Coverage Policy.

INFORMATIONAL NOTES

- A. Pursuant to the State of Idaho Insurance Regulations: A cancellation fee will be charged on all cancelled orders, unless notified to the contrary, all orders shall be cancelled and a billing sent within 6 months of the effective date on the commitment.

CONDITIONS

1. DEFINITIONS

(a) "Mortgage" means mortgage, deed of trust or other security instrument.

(b) "Public Records" means title records that give constructive notice of matters affecting the title according to the state law where the land is located.

2. LATER DEFECTS

The Exceptions in Schedule B - Section Two may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attached between the Commitment Date and the date on which all of the Requirements (a) and (c) of Schedule B - Section One are met. We shall have no liability to you because of this amendment.

3. EXISTING DEFECTS

If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

4. LIMITATION OF OUR LIABILITY

Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying on this Commitment when you acted in good faith to:

comply with the Requirements shown in Schedule B - Section One

or

eliminate with our written consent any Exceptions shown in Schedule B - Section Two.

We shall not be liable for more than the Policy Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

5. CLAIMS MUST BE BASED ON THIS COMMITMENT

Any claim, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this commitment and is subject to its terms.



First American Title Company

168 West Pacific, Blackfoot, ID 83221
Phone (208) 785-0320 - Fax (208) 785-6276

PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information – particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its *Fair Information Values*, a copy of which can be found on our website at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

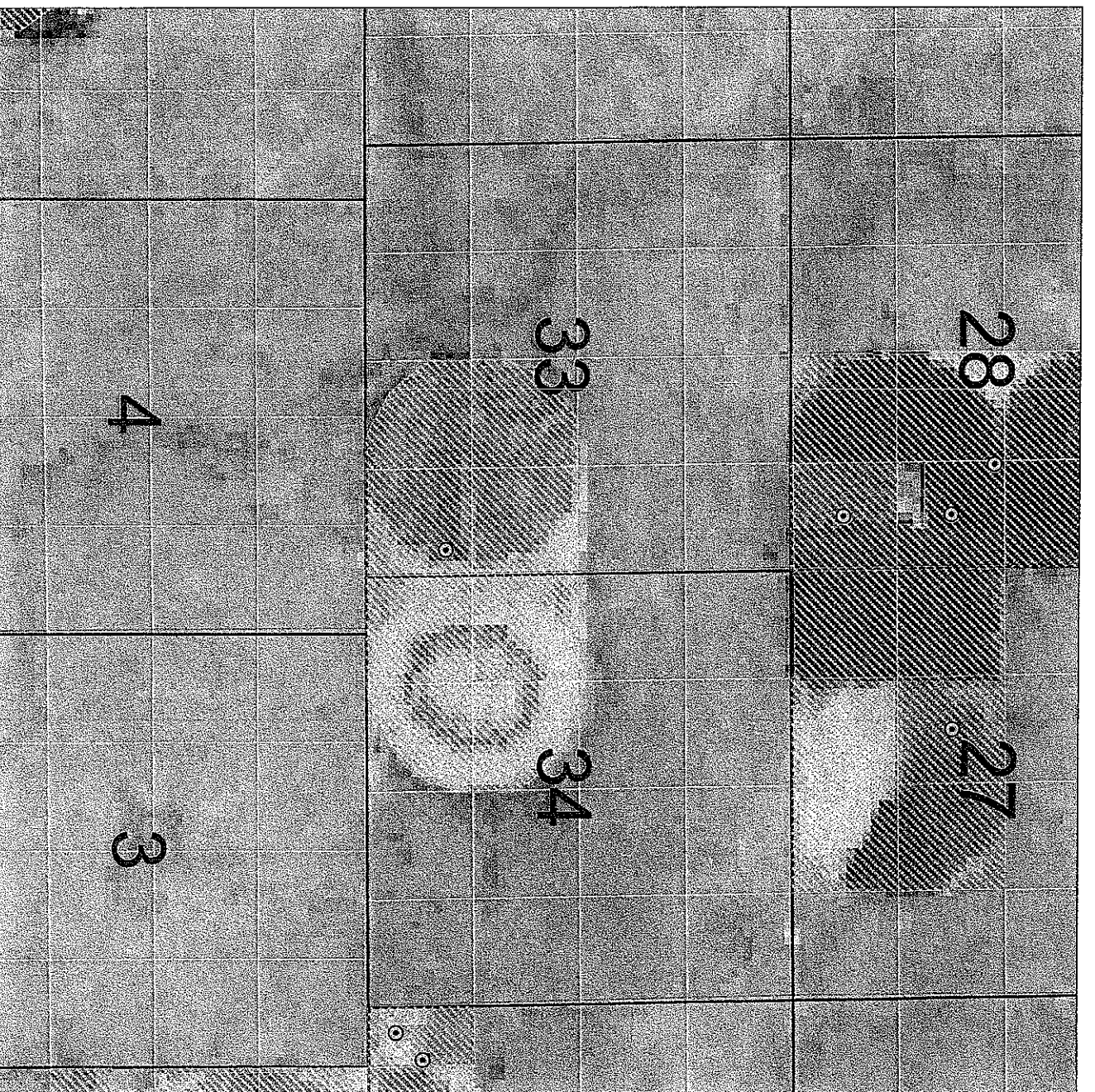
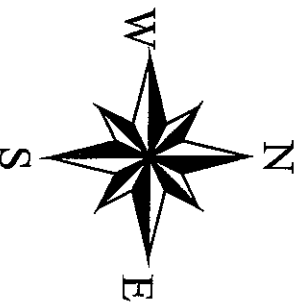
Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's *Fair Information Values*. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

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KBC Farms LLC
35-2426
T03S, R31E, sec 33
and 34
Sat photo shows 291
acres irriagtion 2004.
WD 120 measurement
data shows 521 AF
pumped

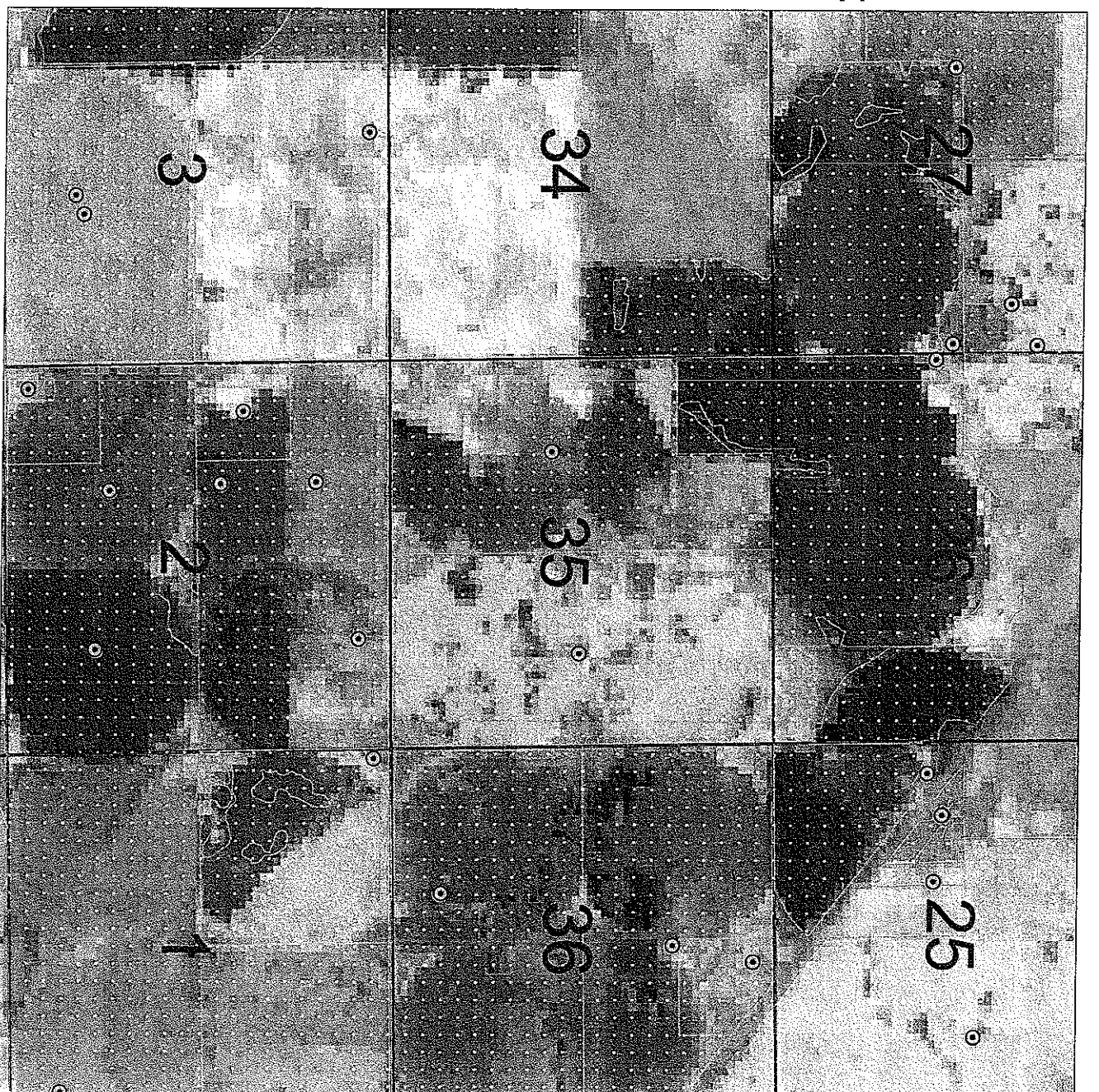
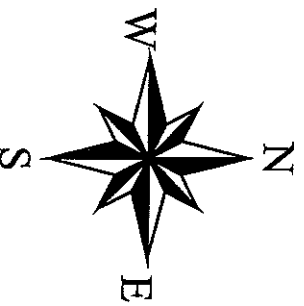
- Active Right POD
- ▨ Active Right POU
- Sections
- QQ
- PLSS Section LinesSections.shp
- Waterdistricts.shp
- Wd120-130.shp



0.6 0 0.6 1.2 Miles

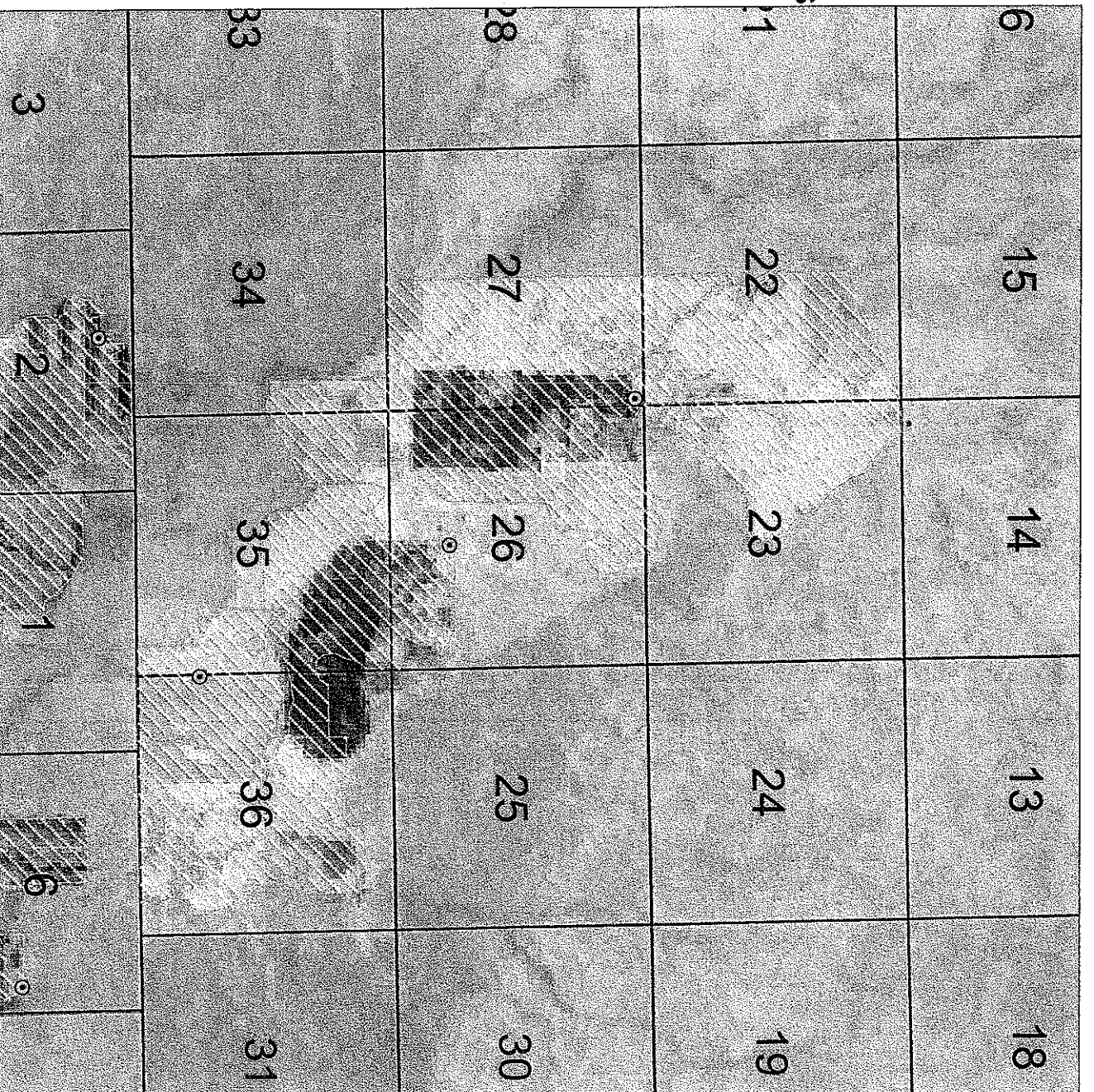
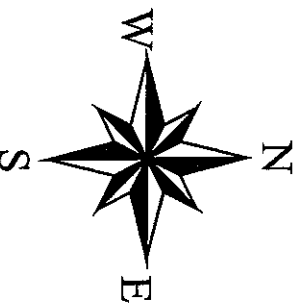
Henry Olsen
 35-2384 and 35-7092
 T01S, R33E, sec 35, E1/2
 Sat photo show corners not
 irrigated leaving ~296 ac.
 ND 120 measurement
 data shows 416 AF
 jumped in 2004

- Active Right POD
- Active Right POU
- Sections
- PLSS Section LinesSections.shp
- Waterdistricts.shp
- Wd120-130.shp



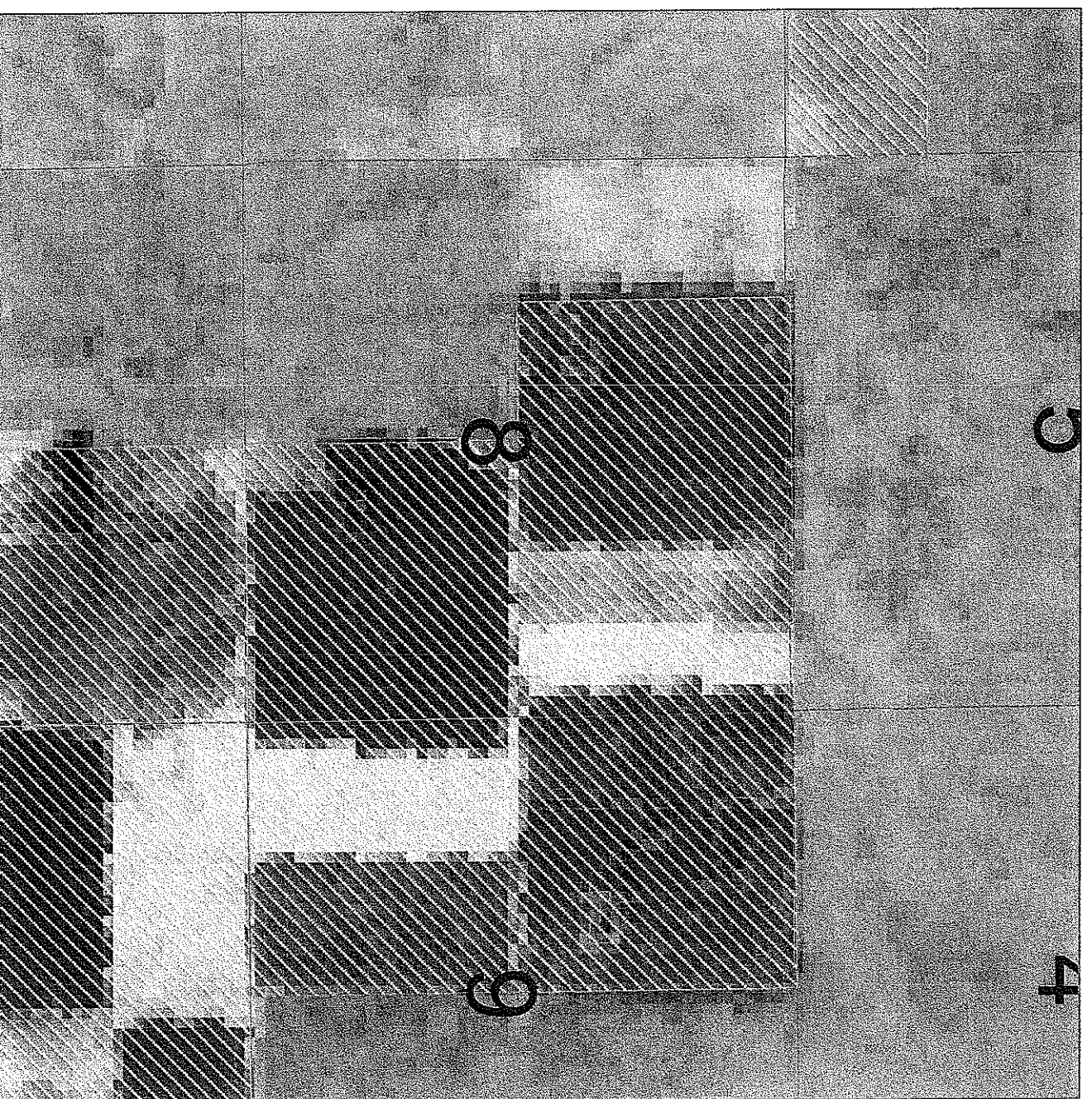
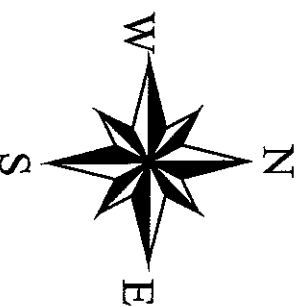
Foster Land And Cattle
 WRs 35-12933 & 35-2653
 900 acres from well at
 T01N, R33E, sec 27
 Sat shows 250 irrigated acres
 measurement data indicates
 291 Af pumped
 WR 35-2503A covers
 276 acres from well at
 T01N, R33E, sec 26
 Sat photo shows 200
 acres irrigated in 2004
 measurement data shows
 351 Af pumped

- Active Right POD
- Active Right POU
- Sections
- PLSS Section LinesSections.shp
- Waterdistricts.shp
- Wd120-130.shp



William Toevs
WR 35-8626 good
for irrigation of 129
acres inside 688.5
acre PPOU. Sat
photo indicate
irrigation occurred
in 2004.
Measurement data
not available.

- Active Right POU
- PLSS Section LinesSections.shp
- Waterdistricts.shp
- Wd120-130.shp



0.4 0 0.4 0.8 Miles